

REMARKS

This amendment is submitted in response to the Office Action mailed December 16, 2008. In view of the following remarks, reconsideration by the Examiner and allowance of the application are respectfully requested.

Claims 1-23 are pending in this application, in which Claims 1-12 are under consideration. Claims 13 – 20 and 22 are now cancelled and Claims 21 and 23 are withdrawn as being directed to a non-elected invention.. None of the claims under consideration have been amended.

Turning to the Office Action, claims 1 – 5 and 7 – 12 are rejected under 35 U.S.C. §102(e) as being anticipated by US Published Patent Application 2002/0143403 to Vaidyanathan et al. and Claim 6 is rejected under 35 U.S.C. §103(a) as being unpatentable over Vaidyanathan et al. Vaidyanathan et al. is cited as disclosing a porous polymeric implant comprising a polymer such as PMMA and a growth enhancing composition to stimulate bone in-growth. This rejection is respectfully traversed for the following reasons.

Vaidyanathan et al. does not disclose a polymeric implant comprising a co-continuous, integrated multi-phase, three-dimensional microstructured network of two or more immiscible biocompatible polymers. As disclosed in the present specification, the tissue compatible composites are prepared using the co-continuous polymer blend technology disclosed by U.S. Patent No. 5,298,214. Prior experience with other polymer systems, particularly the polystyrene/high density polyethylene system, has revealed that co-continuous composites can be produced from immiscible polymers by melt processing. The composite has phase-separated microdomains, one of which serves as a structural phase that is non-degrading or slowly degrades, while the other phase degrades more rapidly to dissolve first and leave behind a three-dimensional interpenetrating microstructure network of pores that promote tissue ingrowth.

Thus, polymers already considered acceptable for the fabrication of biocompatible tissue implants can be formed into tissue implants in such a way that one or more phases can be absorbed by adjoining tissues to form a three-dimensional interpenetrating porous microstructure

that promotes the ingrowth of adjoining tissue into the implant. The ratio of the two polymers can be altered to adjust the texture of the two phase system. Vaidyanathan et al. do not disclose an implant formed by blending two immiscible polymers in a way that provides a structure with these unique features. When two or more polymers are used by Vaidyanathan et al., they do not define a co-continuous, integrated multi-phase, three-dimensional microstructured network.

Because Vaidyanathan et al. do not disclose an implant formed by blending two immiscible polymers in a way that provides a structure that defines a co-continuous, integrated multi-phase, three-dimensional microstructured network, Claims 1–5 and 7–12 are not anticipated by Vaidyanathan et al. under 35 U.S.C. §102(e), nor are Claims 1 – 6 obvious in view of this publication under 35 U.S.C. §103(a). Reconsideration by the Examiner and withdrawal of this rejection is therefore respectfully requested.

Accordingly, in view of the foregoing remarks this application is in condition for allowance. Reconsideration by the Examiner is respectfully requested. In the event any other issues remain outstanding, the Examiner is requested to telephone the undersigned at the below-listed telephone number so that their resolution may be discussed.

If there are any additional charges in connection with this response, the Examiner is authorized to charge Applicant's Deposit Account No. 50-1943.

Respectfully submitted,

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